IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO: 8668 of 1998

Between:

T.R.Sudha Devi W/o Sri P.V.Sasi Kumar
Ameerpet, Hyderabad.

..... PETITIONER

AND

1 The Commissioner of Collegiate Education Government of A.P., Hyderabad.
2 Secretary and Correspondent, New Science College, Ameerpet, Hyderabad.
3 Chairman,New Science College, Ameerpet, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ, order or direction more in the nature of Writ of Mandamus declaring the action of the 3rd respondent in issuing proceedings dt.20-3-98 by terminating the service of the petitioner w.e.f., 1-4-98 ad illegal, arbitrary and against the provisions of Articles 14 and 21 of the constitution of India and consequentially direct the respondents to absorb the petitioners either as typist or as record Assistant w.e.f., from the date of her initial appointment with all consequential benefits.

Counsel for the Petitioner: MR.P.V.S.S.S.RAMA RAO

Counsel for the Respondent No.1: G.P. FOR HIGHER EDUCATION

Counsel for the Respondents 2 and 3: MR.R.RAGHUNANDAN

The Court made the following:

ORDER:

This writ petition is filed seeking a writ of Mandamus declaring the action of the third respondent in issuing the proceedings dated 20-03-1998 by terminating the services of the petitioner with effect from 01-04-1998, as arbitrary, illegal and against the provisions of Article 14 and 21 of the Constitution of India, and with a consequential direction to the respondents to absorb the petitioner either as a Typist or as a Record Assistant and to pay all consequential benefits.

2. It is the case of the petitioner that she was appointed as a Typist by the second respondent on a monthly remuneration of Rs.500/- by his orders dated 07-12-1988. Even though she is qualified to hold the post of Typist on regular basis, she was appointed on a temporary basis by the second respondent. Since then, she has been working as a Typist in the respondent-College without any remarks. Presently, she is drawing an amount of Rs.1650/- per month as remuneration. While so, the second respondent through his letter dated 21-11-1994, requested the first respondent to permit him to absorb the petitioner in the post of Record Assistant in terms of Government Memo No.42246-A/907/PCI/11/93, dated 02-02-1994 from 1988 onwards. However, without reference to the said letter dated 21-11-1994 of the second respondent, the first respondent by his letter dated 03-08-1996 permitted the second respondent to fill up the two posts of Record Assistants and two posts of Attenders. While the matter stood thus, the third respondent, even though not competent, issued proceedings dated 20-03-1998 informing the petitioner that her services are no more required from 01-04-1998. The basis for issuing of the said proceedings seems due to reporting of one Kasinatham to duty on 16-03-1998 as Typist and he was permitted to join duty. It is asserted by the petitioner that since her name was recommended by the second respondent for absorption either as a Record Assistant or in any other suitable post and since she had completed more than ten years of service, she is entitled for being considered as per G.O.Ms.No.212 dated 22-04-1994, on regular basis. The

non-consideration of the case of the petitioner for regular absorption and termination of the services through the impugned proceedings dated 20-03-1998, is arbitrary and illegal.

3. A detailed counter-affidavit has been filed by the respondents 2 and 3. According to them, the Typist post held by one Sri Kasinatham, which is an aided category, was vacant for the reason that the said Kasinatham stopped attending to his duties. Since there was no person available to attend to the Typist job, the services of the petitioner were utilized on temporary basis. At the time of her appointment, she was informed the reasons of her appointment and she was also informed that she would be required only till appropriate orders are obtained in the case of Mr.Kasinatham who had filed W.P.No.10127 of 1989 before this Court. Since the writ petition was allowed, G.O.Ms.No.1838 dated 13-12-1997 was issued directing to continue the said Kasinatham. Since Kasinatham has joined duty, the services of the petitioner were no more required as there was only one post of Typist, and as such the impugned orders were issued. The scheme of appointment in the college has been that, initially a person is appointed as a contingent employee in Class-IV in the aided category, then he or she is confirmed as attender, and thereafter promoted to Record Assistant. All these posts of attender and Record Assistant are aided posts. The petitioner who was working as a Typist was not eligible to appointment as a Record Assistant, since the petitioner was working in unaided post and her salary was being paid by the college and no part of her salary was paid by the State. Her claim that she is eligible for being absorbed on regular basis as per the terms and conditions of G.O.Ms.No.212 is without any substance. Further, the feeder category to Record Assistant is Attender and even otherwise, at present there are about 11 Attenders waiting for promotion as Record Assistants.

4. I have given my earnest consideration to the respective submissions made by the learned counsel on either side and gone through the material made available on record.

5. At the outset, I am of the opinion that the petitioner has not made out any case to quash the impugned proceedings. The petitioner, admittedly, was appointed only as a temporary Typist on 07-12-1988 on a monthly remuneration of Rs.500/-. Admittedly, her candidature was not sponsored by any employment exchange or she had undergone the process of selection as required under the law. She was appointed on temporary basis only to take her services in the absence of the regular Typist Mr.Kasinatham and may be it took some time for Kasinatham to come back and report. Ultimately, the said Kasinatham reported, and therefore, she had no right to continue in the job.

6. However, it is the contention of the learned counsel for the petitioner that she is entitled for being considered to the post of Attender or Record Assistant in terms of G.O.Ms.No.212 dated 22-04-1994.

7. In view of the above, without expressing any opinion on merits, the respondents are directed to consider the case of the petitioner for absorbing in any suitable post, if any vacancies are available and if the same is permissible as per the terms and conditions of G.O.Ms.No.212 dated 22-04-1994, within a period of three months from the date of receipt of a copy of this order. Till such time, the services of the petitioner shall be continued on the same terms and conditions available as on today.

8. With the above observations, the writ petition is disposed of. No order as to costs.

C.V.RAMULU, J

04th July, 2005

SKM

Copy to:

1 The Commissioner of Collegiate Education, Government of A.P., Hyderabad.
2 The Secretary and Correspondent, New Science College, Ameerpet, Hyderabad.
3 The Chairman,New Science College, Ameerpet, Hyderabad.

4 Two C.Cs. to the G.P. for Higher Education, High Court Buildings,

High Court of A.P., Hyderabad (OUT)

5 Two C.D. Copies.